



ROSEBUD SIOUX TRIBE

PO Box 430

Rosebud, SD 57570

Phone: 605.747.2381

Fax: 605.747.2243

Website: rosebudsiouxtribe-nsn.gov

William Kindle, President

Scott Herman, Vice President

Julia M. Peneaux, Secretary

Wayne Boyd, Treasurer

Edward Clairmont, Sergeant-at-Arms

April 19, 2017

Federal Communications Commission

445 12th Street, SW

Washington, DC 20554

Re: Rulemaking

Dear Sirs or Madam,

Greetings from the Rosebud Sioux Tribe. We are in receipt of notice concerning rulemaking changes to the current process of location and co-location of towers, nodes, etc. for telecommunications infrastructure. We have two issues that we seek to bring to your attention which have affect upon Tribal relationship to your Office as a federal agency and limitations that will be imposed regarding Tribal interest in tower, node locations within our respective homelands.

- 1) Prior to the issuance of the proposed rulemaking, there was no consultation with Tribal groups for input, contribution to content verbiage, etc. Tribes were essentially not invited to participate in the construction of the proposed rulemaking subject matter.
- 2) The proposed capping of Tribal surcharges for surveys and investigations for Traditional Cultural Archaeological/Properties within Tribally recognized homelands (cultural landscapes) is unacceptable. Tribal habitation locales, resource (plants, stones, medicines, springs) acquisition areas, sacred/spiritual seasonally and/or astronomy driven ceremonial locales, and other localities incorporating lifeway activities of Tribes.

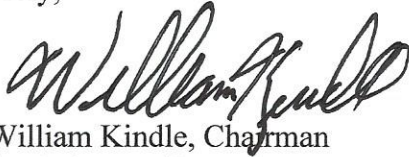
Principally, Tribal costs of operations, travel, per diem, etc. to perform Traditional Cultural Property surveys needs to be compensated and compensation is typically at the federal rates as posted each year by the Internal Revenue Service and Government Services Administration. Some Tribes have a standard charge rate (daily or hourly, internal fixed rate of charge) for investigation and report writing.

We suggest that no decision of incorporating of the rule-making be delayed until Tribes have an opportunity to participate in the language of the proposal. Additionally, we are adamantly not in favor of capping the chargeable rates for Tribal investigations of areas where telecommunications infrastructure is being proposed. We would suggest that regional meetings be implemented where Tribes have the occasion to voice the scope of their interest and suggestions for changes to the current rule-making structure.

We have a resolution attached from our Tribal Council, our internal Tribal leadership body, that emphatically states our opposition to the changes as written.

Thank you for your time and consideration of these concerns and we hope to hear from the FCC at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "William Kindle". The signature is fluid and cursive, with the first name "William" being more prominent than the last name "Kindle".

Mr. William Kindle, Chairman
Rosebud Sioux Tribe
PO Box 403
Rosebud, South Dakota 57570
Ph.- (605) 747-2381

**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2017-107**

- WHEREAS,** The Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and pertinent amendments thereof; and
- WHEREAS,** The Rosebud Sioux Tribe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its Constitution and By-laws; and
- WHEREAS,** the Constitution and By-laws of the Rosebud Sioux Tribe Article IV Section 1 (a) authorizes the Tribal Council to negotiate with the Federal, State and local governments on behalf of the Tribe; and
- WHEREAS,** On March 30, 2017, the Federal Communications Committee ("FCC") release a draft of a combined Notice of Proposed Rulemaking. ("NPRM") and Notice of Inquire (NOT") or together, the "Draft Notice" designed to facilitate and accelerate the deployment of advance wireless broadband service; and
- WHEREAS,** The Draft Notice proposes streamlining the state and local review of wireless siting applications, and overhauling the Commission's implementation of the National Environmental Policy Act ("NEPA") and the National Historic Preservation Act ("NHPA") and seeks comment on the appropriate interpretations of the specific provisions Telecommunications Act of 1996; and
- WHEREAS,** The FCC has assumed responsibility for evaluating environmental effects of wireless facility construction, and under Section 106 of the NHPA, the FCC oversees the review of the impact of wireless communications facility construction on historic properties; and
- WHEREAS,** The Draft Notice and NPRM seeks recommendations to alleviate what the wireless infrastructure development industry views as the largest current obstacles faced by the industry, the Tribal review process under NEPA and Section 106 of the NHPA by limiting (1) fees charged by Tribal Nations, and (2) the scope of geographic areas of interest identified by Tribal Nations; and
- WHEREAS,** The United States has a unique legal relationship with Indian tribal governments set forth in the Constitution of the United States, treaties, Executive Orders, and court decisions, and the federal government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes, and in accordance with the treaties, statutes, Executive Orders and court decisions, recognized the right of Indian tribes to self-government and the inherent right of Indian tribes to exercise sovereign powers over their members and territory; and
- WHEREAS,** The Rosebud Sioux Tribe objects and opposes to any proposed rules by the FCC intended to limit, reduce, restrict or eliminate the sovereign authority of Indian

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tribes to participate in the process of evaluating the environmental impact of wireless facility construction required by NEPA and also objects and opposes the proposed rules to limit, reduce, restrict or eliminate the sovereign authority to regulate the impact of wireless communications facility construction on Tribal cultural properties, historic sites, burial and sacred sites within the territories of the Rosebud Sioux Tribe; and

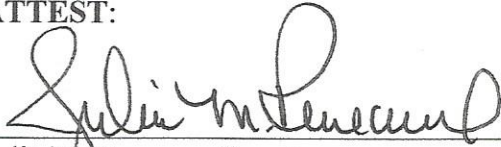
THEREFORE BE IT RESOLVED, That the Rosebud Sioux Tribe adopts the recommendation of the RST Tribal Historic Preservation Office and authorizes the submission of comments objecting and opposing the proposed rules intended to limit, reduce, restrict or eliminate the sovereign authority of the Rosebud Sioux Tribe to enact laws that govern the activities within the territory and lands of the Rosebud Sioux Tribe; and

BE IT ALSO RESOLVED, that the President of the Rosebud Sioux Tribe is authorized and directed to sign and execute the proposed comments and submit them to the Federal Communications Commission.


CERTIFICATION

This is to certify that the above Resolution No. 2017-107 was duly passed by the Rosebud Sioux Tribal Council in session on April 13, 2017 by a vote of ten (10) in favor, zero (0) opposed and two (2) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:



Julia M. Peneaux, Secretary
Rosebud Sioux Tribe



William Kindle, President
Rosebud Sioux Tribe